

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

logany
28170

FILE: B-213988

DATE: May 2, 1984

MATTER OF: Med-E-Jet Corporation

DIGEST:

Where military agencies require capability to conduct mass inoculations on short notice away from permanent military facilities, solicitation specification restricting procurement to foot-powered hypodermic injectors is reasonable since agency's minimum needs require devices which operate independent of any outside power source.

Med-E-Jet Corporation protests the allegedly restrictive specifications of solicitation No. DLA120-84-R-0224 issued by the Defense Logistics Agency for 62 hypodermic injector devices used for mass inoculations. The injectors are being procured for depot stocking purposes. Med-E-Jet, a manufacturer of an injector which uses compressed carbon dioxide (CO₂) as its power source, contends that the solicitation, rather than using performance specifications, effectively eliminates competition by specifying a foot-operated hydraulic pump as the power source for the injector. We deny the protest.

In an earlier protest by Med-E-Jet concerning the previous RFP for the same item, we considered this identical issue. See Med-E-Jet Corporation, B-210029; B-210447, September 2, 1983, 83-2 CPD 293. We found that DLA's primary justification for the procurement of the foot-operated unit, the need to have apparatus in the field that is independent of any outside power source, was reasonable. We noted that even the potential lack of CO₂ availability in combat is sufficient to justify the procurement of self-contained devices for field use, despite the general worldwide availability of CO₂ in the normal civilian marketplace.

Med-E-Jet essentially restates its past arguments and now additionally produces a letter written by the Chairman of the Defense Medical Materiel Board (DMMB) to Med-E-Jet's congressional representative which states that the Department of Defense does not anticipate using injectors in

028771

28170

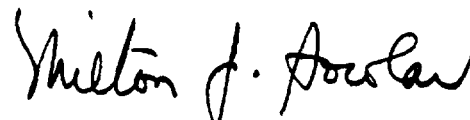
B-213988

actual combat; rather, mass inoculations, if required, would be undertaken in "safe" or "rear" areas within any military theater of operations. Based on this letter, Med-E-Jet concludes that the agency's justification for foot-operated units is unsupportable. We disagree.

The justification submitted by the agency for the allegedly restrictive specifications is not based solely on the use of the foot-operated injector in combat situations. Rather, the justification is based on the military services' broader need for field use, including the need to maintain the capability to conduct mass immunizations on troops away from permanent military facilities on relatively short notice, such as during a period of rapid mobilization. For this purpose, the agency considers unacceptable injectors which require a source of electricity or carbon dioxide in order to operate because of the logistical problems they present. We see no basis to question the agency's judgment.

Med-E-Jet also complains that DLA has failed to purchase any of its CO₂ powered injectors despite our prior decision which also held that DLA was not justified in limiting purchases of injectors to those which were electrically powered where the injectors are intended primarily for use in permanent military facilities with other power sources available. DLA advises our Office, however, that DMMB is currently revising the specifications for injectors intended for permanent facilities and that, due to significant logistical problems in stocking both electrically powered and CO₂ powered injectors, the DMMB has not yet completed the necessary revisions. Under the circumstances, we have no basis to object to DLA's actions.

The protest is denied.



Comptroller General
of the United States